

Natural Resources Conservation Service, USDA

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with the conservation, development, and proper use of water, soil, and related resources.

§ 621.44 Special studies.

As designated, NRCS represents USDA on special study groups such as for the Colorado River Basin Salinity Control Program Studies.

§ 621.45 Flood insurance studies.

As requested by the Federal Emergency Management Agency (FEMA), and within the limits of available resources, NRCS carries out flood insurance studies of various types under the National Flood Insurance Program (Pub. L. 90-448, 82 Statute, 574 (42 U.S.C. 4012)), as amended. In this activity, NRCS performs detailed technical studies to determine the extent and frequency of flooding. The flood insurance program is administered by FEMA. NRCS is reimbursed by that agency for actual costs incurred in carrying out the studies. Local entities desiring flood insurance coverage should contact the responsible State agency or FEMA and apply in accordance with procedures of that agency.

PART 622—WATERSHED PROJECTS

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AUTHORITY: Pub. L. 83-566, 68 Stat. 666 as amended (16 U.S.C. 1001, *et seq.*); Pub. L. 78-534, 58 Stat. 889, 33 U.S.C. 701b-1.

SOURCE: 49 FR 6078, Feb. 17, 1984, unless otherwise noted.

Subpart A—General

§ 622.1 Purpose.

This part sets forth the general policies for planning and carrying out watershed projects under Pub. L. 83-566, 68 Stat. 666 (16 U.S.C. 1001 *et seq.*) and flood prevention projects under Pub. L. 78-534, 58 Stat. 889 (33 U.S.C. 701b-1).

§ 622.2 Scope.

(a) To assist sponsors in preparing and carrying out watershed plans, the Natural Resources Conservation Service (NRCS) shall conduct investigations and surveys, with the cooperation and assistance of other Federal agencies, to:

(1) Determine the extent of watershed problems and needs, and

(2) Set forth viable alternative solutions consistent with local, regional, and national objectives, including an alternative solution which makes the greatest net contribution to national economic development.

(b) Alternatives will consist of either land treatment, nonstructural or structural measures, or combinations thereof that will help accomplish one or more of the authorized project purposes.

(c) Authorized project purposes are watershed protection, conservation and proper utilization of land, flood prevention, agricultural water management including irrigation and drainage, public recreation, public fish and wildlife, municipal and industrial water supply, hydropower, water quality management, ground water supply, agricultural pollution control, and other water management.

(d) After a final plan for works of improvement is agreed upon between NRCS and the sponsors and the approval processes are completed, NRCS will provide technical and financial assistance to install the project, subject to the availability of funds and the budgeting and fiscal policies of the President.

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§ 622.3 Relationship to the Pub. L. 78–534 Program.

(a) *General.* The purposes and objectives of the programs under Pub. L. 83–566 and Pub. L. 78–534 are the same in most cases. Planning criteria, economic justification, local sponsorship, agency participation, financial assistance, eligible measures, operation and maintenance arrangements for the Pub. L. 78–534 program are consistent with those of the Pub. L. 83–566 program. The differences with the Pub. L. 78–534 program are outlined below.

(b) *Initiation.* Flood prevention projects are individually authorized by Federal legislation. The state conservationist and the sponsors agree on a plan of action and notify interested parties to solicit their participation. The sponsors keep the public informed and solicit their views and comments.

(c) *Subwatershed plans.* These plans are administratively approved by the state conservationist. If the plan involves purposes other than flood prevention, clearance must be obtained from the Office of Management and Budget before approval. Financial assistance available differs only in that program funds may be used for the purchase of land rights for single-purpose flood prevention structures and installing land treatment on Federal lands.

(d) *Installation.* NRCS shall award and administer contracts for the installation of project measures unless the sponsors agree to perform the work. Project agreements between the sponsors and NRCS are not required if the work consists of flood prevention structures built and funded by NRCS.

§ 622.4 Relationship to other agencies.

NRCS will coordinate responsibilities with other water and land resource development agencies on projects that may come under the jurisdictions of various authorities. This will include any land management agencies which may have land which would be affected by project measures. Coordination with the U.S. Department of the Interior's Fish and Wildlife Service will be in accordance with section 12 of Pub. L. 83–566 (as amended).

§ 622.5 Guidelines.

Guidelines for carrying out programs authorized under Pub. L. 83–566 and Pub. L. 78–534 are contained in miscellaneous instructions, manuals, and handbooks issued by the Natural Resources Conservation Service, Regulations for Implementing NEPA (40 CFR parts 1500–1508) issued by the Council on Environmental Quality, and in Economic and Environmental Principles and Guidelines for Water and Related Land Resources Implementation Studies issued by the Water Resources Council. Watershed projects are to be planned and carried out in a way that will conform to conditions mandated by the above and other applicable laws, Executive orders, and codified rules.

§ 622.6 Equal opportunity.

The Pub. L. 83–566 and Pub. L. 78–534 programs will be conducted in compliance with all requirements respecting nondiscrimination as contained in the Civil Rights Act of 1964, as amended, and in the regulations of the Secretary of Agriculture (7 CFR Part 15), which provide that no person in the United States shall, on the grounds of race, color, national origin, sex, age, handicap, or religion be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted or assisted by the Department of Agriculture.

§ 622.7 Notification under Executive Order 12372.

This program is covered under Executive Order 12372, “Intergovernmental Review of Federal Programs” and 7 CFR Part 3015, Subpart V, “Intergovernmental Review of the Department of Agriculture Programs and Activities.” State processes or directly affected State, areawide, regional and local officials and entities have 60 days for comment starting from the date of submission of the application to the State Single Point of Contact.

Subpart B—Qualifications

§ 622.10 Sponsors.

(a) Watershed projects are sponsored by one or more local organizations

qualifying as sponsors. All watershed plans shall be sponsored by entities legally organized under State law or by any Indian tribe or tribal organization having the authority to carry out, operate and maintain works of improvement. Those plans that incorporate the use of nonstructural or structural measures shall be sponsored by organizations that, individually or collectively, have:

- (1) The power of eminent domain,
- (2) The authority to levy taxes or use other adequate funding sources, including state, regional, or local appropriations, to finance their share of the project cost and all operation and maintenance costs.
- (b) To receive Federal assistance for project installation, sponsors must commit themselves to use their powers and authority to carry out and maintain the project as planned.

§ 622.11 Eligible watershed projects.

(a) To be eligible for Federal assistance, a watershed project must:

- (1) Meet the definition of a watershed area as defined in NRCS's National Watersheds Manual.
- (2) Not exceed 250,000 acres in size.
- (3) Not include any single structure that provides more than 12,500 acre-feet of floodwater detention capacity nor more than 25,000 acre-feet of total capacity.
- (4) Have significant land or water management problems that can be solved or alleviated by measures for watershed protection, flood prevention, drainage, irrigation, recreation, fish and wildlife, municipal or industrial water supply, or other water management.
- (5) Produce substantial benefits to the general public, to communities, and to groups of landowners.
- (6) Cannot be installed by individual or collective landowners under alternative cost-sharing assistance.
- (7) Have strong local citizen and sponsor support through agreement to obtain land rights, contribute the local cost of construction, and carry out operation and maintenance.
- (b) Works and improvement that may be included in a watershed project are those that:

(1) Contribute to reducing floodwater, erosion, and sediment damages.

(2) Further the conservation, development, utilization, and disposal of water and the conservation and proper utilization of land.

(3) Have the greatest net national economic benefits consistent with protecting the Nation's environment (for structural water resource projects) relative to alternative works, unless an exception is granted by the Secretary.

Subpart C—Application Procedure

§ 622.20 Application.

Sponsors shall follow State developed procedures (based on Executive Order 12372) for coordination of proposed Federal financial assistance and also USDA's 7 CFR part 3015 in applying for Pub. L. 83-566 assistance. Standard forms for Federal assistance or other approved forms may be obtained from NRCS State, area, or field offices. These forms should be submitted to the Single Point of Contact in accordance with the State developed procedures.

§ 622.21 State agency approval.

The governor or designated State agency will approve or disapprove the application. If disapproved, no further action is required of NRCS. If approved or not disapproved within 45 days, the application shall be sent to the NRCS state conservationist. After the state conservationist has determined that the application is legally valid, he will notify the sponsor of receipt of the application. If found not legally valid, the state conservationist will return it to the originator with an opinion.

Subpart D—Planning

§ 622.30 General.

(a) Watershed projects are to be planned and carried out in a way that will (1) minimize all adverse impacts, and (2) mitigate unavoidable losses to the maximum practicable degree. Projects must comply with the requirements of the National Environmental Policy Act of 1969 (Pub. L. 91-190, 83 Stat. 852) (42 U.S.C. 4321 *et seq.*).

(b) Fish and Wildlife enhancement measures proposed by Federal or State

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fish and wildlife agencies will be included if they are technically and economically feasible and are acceptable to the sponsors and the NRCS. If additional sponsors are needed to carry out the recommended fish and wildlife measures, NRCS will assist fish and wildlife agencies in attempting to obtain such sponsors.

(c) All planning efforts by NRCS and the sponsors must include well publicized public meetings to obtain public input and views on the project.

(d) Sponsors who receive financial assistance awarded after October 1, 2010, must comply with applicable registration and reporting requirements of the Federal Funding Accountability and Transparency Act of 2006 (Pub. L. 109-282, as amended), and 2 CFR parts 25 and 170.

[49 FR 6078, Feb. 17, 1984, as amended at 76 FR 19684, Apr. 8, 2011]

§ 622.31 Basic planning efforts.

Upon receipt of an application, the NRCS will make any necessary field studies and develop a report to justify the need for planning effort. Once planning is authorized by the Chief of NRCS, a watershed plan-environmental impact statement (plan-EIS) or a watershed plan-environmental assessment (plan-EA) will be prepared by NRCS to request funding. This effort must be coordinated with other State and Federal agencies.

§ 622.32 Reviews and approvals.

(a) The watershed plan-environmental impact statement (or assessment) will be subject to internal technical reviews, sponsor and other local party review, interagency review by other Federal, state, and concerned groups, and a final review as stated in NRCS's National Watersheds Manual.

(b) After thorough review by NRCS and other agencies, the NRCS and the sponsors shall accept the plan-EIS or plan-EA by signing the watershed agreement. The watershed plan must be approved by the Committees of Congress or the Chief of NRCS. Funding for installation can then be granted by the Chief of NRCS.

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PART 623—EMERGENCY WETLANDS RESERVE PROGRAM

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AUTHORITY: 16 U.S.C. 3837-3837f; Pub. L. 103-75, Chapter 1, 107 Stat. 739, 742.

SOURCE: 58 FR 62497, Nov. 29, 1993, unless otherwise noted.

§ 623.1 Purpose and scope.

(a) The regulations in this part set forth the policies, procedures, and requirements for the Emergency Wetlands Reserve Program (EWRP). Under the EWRP, NRCS will make offers to purchase wetland conservation easements from persons owning croplands that were damaged by the 1993 Midwest floods if those lands have the potential for restoration to wetland conditions and if the owner voluntarily agrees to restore and maintain those conditions. The easements are to be purchased to promote the restoration and maintenance of wetland characteristics, such as hydrologic conditions of inundation or saturation of the soil and hydrophytic vegetation. The functions and values of the wetlands for wildlife habitat, water quality improvement, flood water retention, floodway enhancement, ground water recharge, open space, aesthetic values, and environmental education will thus be promoted. The wetland conservation easements will permanently prohibit use of